APPENDIX.

STATUTES AND RULES INVOLVED.

I.

Rule 8, Revised Rule of the Supreme Court of the United States.

Where it is shown to the court that any member of its bar has been disbarred from practice in any State, Territory, District, Commonwealth, or Possession, or has been guilty of conduct unbecoming a member of the bar of this court, he will be forthwith suspended from practice before this court. He will thereupon be afforded the opportunity to show good cause, within forty days, why he should not be disbarred. Upon his response to the rule to show cause, or upon the expiration of the forty days if no response is made, the court will enter an appropriate order; but no order of disbarment will be entered except with the concurrence of a majority of the justices participating.

II.

Rule 46 (b), Federal Rules of Appellate Procedure.

(b) **Suspension or Disbarment.** When it is shown to the court that any member of its bar has been suspended or disbarred from practice in any other court of record, or has been guilty of conduct unbecoming a member of the bar of the court, he will be subject to suspension or disbarment by the court. The member shall be afforded an opportunity to show good cause, within such time as the court shall prescribe, why he should not be suspended or disbarred. Upon his response to the rule to show cause, and after hearing, if requested, or upon expiration of the time prescribed for a response if no response is made, the court shall enter an appropriate order.

III.

Title 46, Section 25, Code of Alabama, 1940.

The board of commissioners shall have power: (a) to determine, by rules, the qualifications and requirements for admission to the practice of law; (b) to conduct, through a board of examiners, hereinafter provided for, the examination of applicants; and such board of examiners shall certify to the supreme court the names of the applicants found to be qualified; such certifications shall entitle such persons to be enrolled in the bar of the state and to practice law, provided the fees hereafter required are paid; (c) subject to the approval of the supreme court, to formulate rules governing the conduct of all persons admitted to practice, and to investigate, or cause to be investigated, and to pass upon, all complaints that may be made concerning the professional conduct of any person who has been, or may hereafter be, admitted to the practice of the law; (d) subject to the approval of the supreme court, to formulate rules governing the re-instatement of members of the bar who have been disbarred, and to pass upon all petitions for re-instatement; (e) to appoint one or more committees from the membership of the board, or from the membership of the entire bar, or partly from one and partly from the other, to take evidence in connection with any complaint filed against any attorney and forward the same to the board. In all cases, testimony with reference to such charges shall be taken at the courthouse of the county of the residence of the party charged, provided the evidence of witnesses residing outside of such county may be taken in the same manner as provided by law for the taking of depositions in civil cases. The state solicitor of the circuit in which such accused attorney resides shall prosecute any such charge or case, interrogate the witnesses, introduce the evidence in support of such charges, and, when requested by any member

of the board, argue the cause before the board. The board shall administer such discipline, by public or private reprimand, suspension from the practice of law, or exclusion and disbarment therefrom, as the case shall, in their judgment, warrant. A majority of the board shall constitute a quorum and the majority of those present (if a quorum be present) shall be empowered to act as and for the entire board. The supreme court may, and on petition of the party aggrieved must, in any case of suspension or disbarment from practice, review the action of the board, and may, on its own motion, and without the certification of any record, inquire into the merits of the case and take any action agreeable to their judgment. Rules regulating the manner of such review and providing for the certification of the evidence, or if the supreme court desire, the taking of additional evidence, shall be promulgated by said board and become effective upon approval by the supreme court; (f) To make rules and by-laws not in conflict with any of the terms of this chapter concerning the selection and tenure of its officers and committees and their powers and duties, and generally for the control and regulation of the business of the board and of the state bar. (g) To hold and conduct educational and social meetings and activities among the members of the bar, to publish journals and generally to do such things as in their judgment may tend to improve the educational and ethical standing of bench and bar. (h) Should any vacancies occur on said board, to fill such vacancies by appointment of a member of the state bar from the judicial circuit in which said vacancy exists and such appointee shall hold for the time of the unexpired term or pending the election of his successor. (i) To establish circuit or branch associations of the state bar and if circuit associations are established, the member of the board from said circuit shall be ex officio the president of such circuit association. Said circuit or branch association shall have no authority to

suspend or disbar attorneys and in all matters shall be subordinate to the authority of the board. If any member of said board is a party to the preferment of charges for disbarment or suspension of any lawyer, or there exists as against any member of such board any causes provided by law for the disqualifications of judges or jurors in civil or criminal cases, such member shall be disqualified from sitting as a member of said board in the hearing of such charges. Said board shall have no authority, nor shall it in any way undertake, to regulate the fees or charges of lawyers for the rendition of their professional services.

IV.

Title 46, Section 36, Code of Alabama, 1940.

§ 36. (6236) **Rights of accused member.** Any member of the bar complained of shall have notice and opportunity to defend by the introduction of evidence and the examination of witnesses called against him, and the right to be represented by counsel. He shall also have the right to require the secretary to summon witnesses to appear and testify or produce books, papers, documents or other writings necessary or material to his defense in like manner as above provided.

V.

Rule 37, Section A, Rules of the Alabama Supreme Court Governing the Conduct of Attorneys in Alabama.

. . . But no attorney shall be subject to disciplinary measures for any action on his part who, prior to such action, has received from the Grievance Committee its written opinion that such action was justifiable or permissable.

VI.

Rule 3, Section B, Rules of the Alabama Supreme Court Governing the Conduct of Attorneys in Alabama.

3. **Contents of Complaint.** It shall be sufficient for any complaint against any attorney to charge in writing that such an attorney has violated or failed to comply with one or more of the rules, referring to such rule or rules by the numbers hereinbefore set forth, and such specification of the conduct complained of as will fairly and reasonably give the accused reasonable information of the acts or offenses complained of.

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VIII.

Rule 6, Section B, Rules of the Alabama Supreme Court Governing the Conduct of Attorneys in Alabama.

6. **Filing and Service of Complaint.** One copy of such complaint shall be filed with the Secretary and one copy thereof shall be served upon the accused attorney in person within a reasonable time after the filing thereof, and proof of such service shall be promptly filed with the Secretary. . . .

IX.

Rule 10, Section B, Rules of the Alabama Supreme Court Governing the Conduct of Attorneys in Alabama.

10. **Defendant's Plea.** Within twenty days from the service of such complaint upon such attorney, the accused attorney shall file in the office of the Secretary his written plea or pleas. If no plea be filed within the said time, the Board shall proceed as if a plea of the general issue had been filed.

X.

Rule 12, Section B, Rules of the Alabama Supreme Court Governing the Conduct of Attorneys in Alabama.

12, **President's Order Fixing Date, and by Whom Testimony Taken.** The evidence may be taken either (a) by the Grievance Committee of the Board, or (b) by a Commissioner designated by the President, or (c) by the Board, and the President shall determine whether the evidence shall be taken by the Grievance Committee of the Board or by a Commissioner or by the Board. The President shall thereupon make and cause to be filed with the Secretary an order fixing a date for taking the evidence upon the said complaint.

XI.

Rule 13, Section B, Rules of the Alabama Supreme Court Governing the Conduct of Attorneys in Alabama.

13. **Notice by Secretary of Date Set for Hearing.** The Secretary shall give notice of the date so fixed to the accused attorney and to the Proctor of the Alabama State Bar by registered mail, which notice shall be given at least five (5) days prior to the date so fixed.

XII.

Rule 19, Section B, Rules of the Alabama Supreme Court Governing the Conduct of Attorneys in Alabama.

19. **Summoning Witnesses: Production of Papers.** Witnesses may be summoned by the Board, its President, its Secretary, any Girevance Committee, any Chairman of a Grievance Committee, or by the Commissioner, their appearance and testimony required, the oath administered, depositions taken, and the production of books, papers and other documents required in all respects as provided by law.